

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JOSE RODRIGUEZ

Plaintiff,

v.

9:10-CV-0734

N. SMITH, Nurse Administrator, Upstate
Correctional Facility,

Defendant.

THOMAS J. McAVOY
Senior United States District Judge

DECISION and ORDER

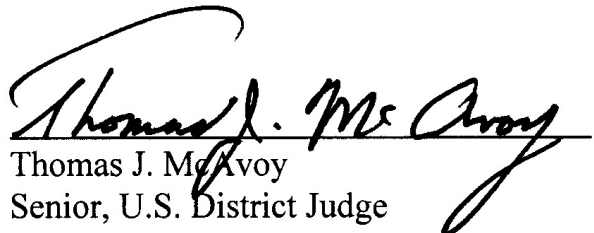
This matter brought pursuant to 42 U.S.C. § 1983 was referred to the Hon. David E. Peebles, United States Magistrate Judge, for a Report-Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rules 72.3 (c).

No objections to the August 19, 2011 Report-Recommendation have been raised. After examining the record, the Court determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice. Accordingly, the Court adopted the Report-Recommendation for the reasons stated therein.

It is, therefore, ORDERED, that Defendant's motion to dismiss Plaintiff's amended complaint GRANTED without prejudice to refile of an amended complaint within thirty days. In the event Plaintiff fails to file an amended complaint within thirty days, this action will be dismissed without further action by the Court.

IT IS SO ORDERED.

Dated: September 21, 2011


Thomas J. McAvoy
Senior, U.S. District Judge